IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 34 OF 2005

SHANTABAI VAIKUNTH SAWAL,MARGAO GOA. ....Petitioner

Versus

ROSA FERNANDES,MARGAO GOA. ....Respondent

Shri C. Mascarenhas, Advocate for the petitioner.

Coram:- R. M. LODHA, J.

Date:- 29th September, 2005

P.C.

Heard Mr. C. Mascarenhas, the learned Counsel for the petitioner.

This writ petition is directed against the Order dated 25.11.2003 passed by the Civil Judge, Junior Division, Margao rejecting the application for amendment in the written statement.

The application seeking amendment in the written statement was made by the petitioner (original defendant) after the trial has already commenced. The trial Court found that the defendant failed to show due diligence for not having applied for amendment before the commencement of trial. The explanation given by the defendant for making the application after commencement of trial was not found satisfactory. In find no justifiable ground to take a different view. Not only that, though the impugned order is dated 25.11.2003, the present writ petition has been filed on 14.1.2005. That shows the intention of the petitioner (defendant) in protracting the litigation.

No case for invocation of writ jurisdiction is made out. The writ petition is dismissed in limine.

R. M. LODHA, J.

ssm.